

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF

Hyong Yi
(former) Special Assistant
to the Chief of Staff
Executive Office of the Mayor

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DATE: October 29, 2002

DOCKET NO.: CF 2002-15

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that certain current and former employees engaged in behavior that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

In the instant case, the OIG has alleged that Hyong Yi (hereinafter respondent), former Special Assistant to the Chief of Staff for the Executive Office of the Mayor (hereinafter EOM) engaged in private or personal business activity on government time and with the use of government resources on behalf of the non-profit Millennium Washington Capital Bicentennial Corporation (hereinafter MWCBC) in violation of §§1804.1(b) and 1806.1 of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §1804.1(b) reads as follows:

An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to, the following:

. . .

(b) Using government time and resources for other than official business[.]

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations. There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01. Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

By letter dated June 7, 2002, OCF requested the respondent's appearance at a scheduled hearing on June 17, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of his participation in the hiring of contract employees with District government funds and the use of District government space and furniture on behalf of the private, non-profit MWCB. Consequently, the Inspector General has alleged that the respondent engaged in activity which was not compatible with the full and proper discharge of his responsibilities as a government employee. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

DPM §1806.1 reads as follows:

A District employee shall not use or permit the use of government property, equipment or material of any kind.
. .for other than officially approved purposes.

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

On June 17, 2002 the respondent failed to appear at a scheduled hearing before the OCF.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent, Hyong Yi, had fiscal oversight responsibility of the EOM budget through 1999, and was a public official required to file a Financial Disclosure Statement (hereinafter FDS) with OCF. Report at 65.
2. MWCBC was incorporated in October 1999 under the auspices of Henry “Sandy” McCall, then EOM Deputy Chief of Staff for External Affairs, as a private, non-profit corporation authorized to solicit donations for the 2000 millennium celebration in the District of Columbia. Report at 50-51.
3. From November 1999 through the middle of January 2000, MWCBC operated out of the EOM office located at 1 Judiciary Square, 441 4th Street, NW, Washington, D.C. Id.
4. Among other things, the respondent was responsible for overseeing the processing of EOM purchase orders and had fiscal oversight responsibility over MWCBC. Report at 65.

Conclusions of Law

1. Respondent was an employee of the District of Columbia government and was subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. From November 1999 through the middle of January 2000, MWCBC, notwithstanding that it was a private, non-profit corporation, operated out of 1 Judiciary Square as a District of Columbia government agency; and the respondent believed that MWCBC business was government business.
3. Respondent used District of Columbia government property, equipment and material to process government purchase orders on behalf of MWCBC and to exercise fiscal oversight thereof; and, it is more likely than not that the respondent was well aware that his actions violated the employee conduct regulations because respondent was fiscally responsible for a million-dollar private, non-profit corporation.
4. The responsibility for enforcing the provisions of the employee conduct rules against the respondent would have rested with Mayor Anthony A. Williams (hereinafter the Mayor).

Recommendation

Had Hyong Yi remained an employee, I would have recommended to the Director to advise the Mayor of the District of Columbia to take disciplinary action against Hyong Yi based upon his violations of the Standards of Conduct to include a change in his assigned duties, corrective or adverse action, his disqualification for a particular assignment, pursuant to DPM §1801.2, or his removal from District government service.

It should be noted that prior to the issuance of the Report, the Mayor appointed an EOM Ethics Counselor and scheduled meetings and workshops to inform and clarify each staff member as to the provisions and prohibitions of the Standards of Conduct.

Because Hyong Yi is no longer a District government employee, and, because the Mayor of the District of Columbia has taken steps to definitively and thoroughly inform each staff member as to provisions and prohibitions of the Standards of Conduct, I hereby recommend that the Director advise the Mayor to be always cognizant of this responsibility.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

The circumstances surrounding the instant misconduct involved an employee who believed that his conduct was within the parameters of his job description. But, Hyong Yi is no longer a District government employee, and, the Mayor has taken appropriate measures, by appointing an EOM Ethics Counselor and conducting extensive workshops, to apprise and re-apprise his staff of the provisions and prohibitions of the Standards of Conduct. Thus, the Mayor has taken suitable measures to ensure the integrity of government. I advise the Mayor to remain ever vigilant in this regard.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, NW, Washington, D.C., 20009.